

Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL).

August 29, 2001

Dear Sir or Madam:

It has come to our attention that an advertising flyer recently stated that the five COMPANY stores of CITIES would be responsible for sales tax on customer purchases made at the stores on July 28, 2001. The flyer, which was headlined in one inch letters stating "TAX-FREE DAY!!", also included the following language:

"You pay . . . No State Sales Tax!  
No County Sales Tax!  
No City Sales Tax!

COMPANY is responsible for all applicable state, county & city sales taxes . . . & hey, when else is it legal to not pay taxes?!"

Please consider this letter as fair notice that this conduct violates the provisions of the Use Tax Act. Section 3-45 of the Use Tax Act (35 ILCS 105/3-45) requires Illinois retailers to collect the Use Tax from purchasers by adding the tax to the selling price of the tangible personal property when sold for use. Section 7 of the Use Tax Act states:

"It is unlawful for any retailer to advertise or hold out or state to the public or to any purchaser, consumer or user, directly or indirectly, that the tax or any part thereof imposed by Section 3 hereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added that it or any part thereof will be refunded other than when the retailer refunds the selling price and tax because of the merchandise's being returned to the retailer or other than when the retailer credits or refunds the tax to the purchaser to support a claim filed with the Department under the Retailers' Occupation Tax Act or under this Act. Any person violating any of the provisions of this Section within this State shall be guilty of a Class A misdemeanor." 35 ILCS 105/7

As indicated therein, it is a class A misdemeanor for a retailer to advertise that he will pay the sales tax on a purchase. We have enclosed a copy of 86 Ill. Adm. Code 150.515 that reflects this statutory prohibition. While we do not want to interfere with your advertising techniques, under the circumstances, we are compelled to do so. You should immediately cease advertising that you will pay the sales tax. Any future advertisements of this kind will be viewed as a continuing violation, which could result in criminal prosecution.

If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.